



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 1690-99

29 February 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his naval record be corrected to show that he transferred to the Retired Reserve vice being discharged on 3 December 1985.

2. The Board, consisting of Mr. Kastner, Mr. Mazza and Ms. LeBlanc, reviewed Petitioner's allegations of error and injustice on 23 February 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Marine Corps Reserve for two years on 4 December 1983 in the grade of SGTMAJ (E-9). On 18 September 1984 he was issued a Notification of Eligibility for Retired Pay at Age 60. He was honorably discharged on 3 December 1985 at the expiration of his enlistment.

d. Petitioner states in his application that he thought he had been retired and was unaware of the discharge.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps

has routinely recommended corrective action in similar cases when an individual is in good standing in the Marine Corps Reserve and there is no explanation in the record to show why he was discharged and not retired.

f. The Board is aware that the Uniform Retirement Date Act 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it. Given the circumstances, the Board concludes that he should be transferred to the Retired Reserve in the grade of SGTMAJ. In view of the requirement of the Uniform Retirement Date Act, the Board further concludes that he should be transferred to the Retired Reserve on 1 December 1985 vice being discharged on 3 December 1985.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 1 December 1985 in the grade of SGTMAJ vice being discharged on 3 December 1985.

b. That this Report of Proceedings be filed in Petitioner's naval record.

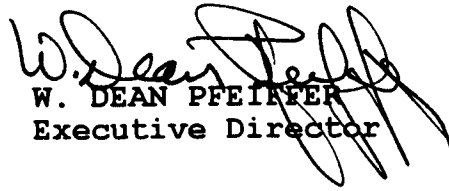
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the

authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director